

2018 EPIC AUSTRALIA PASS AND PERISHER SEASON PASS TERMS AND CONDITIONS (“TERMS AND CONDITIONS”)

1. Perisher Blue Pty Limited (referred to in these Terms and Conditions as “Perisher”, “we”, “us”, “our”) owns and operates this website.
2. The *Competition and Consumer Act 2010 (Cth)* and the *Australian Consumer Law* imply terms, conditions, consumer guarantees and warranties into some contracts for the supply of goods and services and prohibit the exclusion, restriction and modification of such terms (“Prescribed Terms”).
3. Except as provided by the Prescribed Terms and as may be expressly set out in the Terms and Conditions:
 - a. this website including all its pages and contents (“Website”) and all goods and services provided or booked via the Website are provided on an “as is” basis without any warranties or representations of any kind;
 - b. all statutory or implied conditions or warranties of any kind, including but not limited to implied warranties of merchantability and fitness for a particular purpose are expressly disclaimed;
 - c. Perisher will use reasonable endeavours to process electronic payment transactions involving debit and credit cards in a timely and secure manner. However Perisher, its directors, employees and beneficiaries make no warranties or representations regarding the time required to initiate or complete the processing of any transaction, and do not warrant or represent that your access to and use of the Website including but not limited to the payment facility will be continuous, uninterrupted, error free or secure, that any defects will be corrected or that this Website, its servers and any network connections are free of computer viruses and other harmful data, code, components or other material.
 - d. Without limitation Perisher, its directors, employees and beneficiaries are not liable to you for any loss or liability of any kind caused by any delay or failure to provide information or perform operations (including but not limited to electronic payment processing) requested or do so correctly, including but not limited to as a result of or in connection with,
 - i. any delay or failure in any transmission or communication facilities;
 - ii. any delay, failure or malfunction of the Website including but not limited to the payment facility;
 - iii. any failure or delay caused by third parties including but not limited to internet service providers, carriers or communications service providers, financial institutions, or payments service providers;
 - iv. delay, failure or malfunction of computer or network equipment, telephone lines, browsers, software, mobile phones or other handheld devices, or any related equipment or facilities;
 - v. computer viruses or other harmful data, code, components or other material;
 - vi. any other event beyond the reasonable control of Perisher its directors, employees and beneficiaries.
 - e. Perisher, its directors, employees and beneficiaries, do not warrant or represent that they will be able to prevent any illegal, harmful or inappropriate access, use, modification or alteration of the Website including but not limited to the payment facility, or that they will give notice of such access, use, modification or alteration;
 - f. Perisher, its directors, employees and beneficiaries, do not warrant or represent the correctness, accuracy, timeliness, completeness, reliability, quality or otherwise of the Website including but not limited to the payment facility. The use of the Website and any services including but not limited to the payment facility is at your own risk.
 - g. If your use of the Website results in the need for servicing or replacing equipment or data, Perisher, its directors, employees and beneficiaries are not responsible for those costs;
4. To the fullest extent permitted by law:
 - a. Perisher’s liability under any Prescribed Terms is limited at Perisher’s option to replacement, repair or resupply of goods, resupply of services, or to payment of the cost of the same; and
 - b. Perisher, its directors, employees and beneficiaries shall not be liable for any loss or damage whatsoever (including, without limitation, direct, indirect, incidental, special and/or consequential loss or damages (including but not limited to loss of profits, revenue, expectation, business, goodwill or data), whether arising under contract, tort (including negligence) or any statutory cause of action, resulting directly or indirectly from or arising in connection with,
 - i. a breach of the Website Terms;
 - ii. any use or access of, or any inability to use or access, the Website or any services including but not limited to the payment facility, or;
 - iii. any goods or services provided or booked via the Website.
5. You agree to use and access the electronic payment facility on this Website strictly in accordance with the requirements and procedures set out on the Website from time to time and any applicable laws. You are responsible for entering the correct account/card number and other details required by the electronic payment facility on this Website, and for maintaining the security of your computer software and hardware. Your submission of a purchase of goods or services via the Website constitutes an offer subject to acceptance by Perisher. Perisher may amend any such requirements or procedures at any time.
6. You are responsible for presenting the credit card used to make the purchase to Perisher for inspection at the time you redeem your purchase. Where the credit card used to make the purchase is not presented at the time of redemption of the purchase, Perisher may cancel the booking at its complete and absolute discretion. As soon as you become aware that the credit card used to make the purchase may not be able to be presented at the time of redemption of the purchase, for instance because it has been lost, stolen, replaced or has expired, you must promptly contact Perisher to make alternative arrangements. You agree that you will make only legitimate bookings in good faith for use by you and your invited guests only, and not for other purposes, including without limitation, reselling, impermissibly assigning or posting on third party websites, or making speculative, false or fraudulent bookings, or any booking in anticipation of demand.

7. Where you seek or do book or buy Season Pass products (including the Epic Australia Pass) via the Website or elsewhere (whether as part of a package or otherwise), then you acknowledge the following risk warning and agree to the following terms:
- a. You engage in any Recreational Activity at your own risk and you acknowledge that except to the extent that the law, including the *Competition and Consumer Act 2010 (C'th)* (CCA) provides that liability cannot be excluded, we are not liable for any breach of any warranty that services we provide will be provided with reasonable care and skill.
 - b. You acknowledge the risk warning set out in bold below and that the warning constitutes a risk warning pursuant to the *Civil Liability Act 2002(NSW)*.
 - c. You acknowledge that you will observe the Alpine Responsibility Code (copies are available upon request) and that you will conduct yourself in a safe and controlled manner at all times. Failure to do so may result in us deactivating the ski lift access component of your Season Pass.
 - d. You must read all signs and follow all directions given by us, our employees or agents.
 - e. To the maximum extent permitted by law we exclude all liability to you, including for negligence and whether the loss or damage has occurred to person or property. Where that liability cannot be excluded, we limit our liability to you to the maximum extent permitted by law.
 - f. You acknowledge that the "Recreational Activities" we provide constitute "Recreational Services" as defined in the CCA. To the maximum extent permitted by the CCA, we exclude liability to you for:
 - i. death;
 - ii. personal injury;
 - iii. the contraction, aggravation or acceleration of a disease; and
 - iv. the coming into existence, the aggravation, acceleration or recurrence of any other condition, circumstance, occurrence, activity, form of behaviour, course of conduct or state of affairs in relation to an individual:
 - (i) that is or may be harmful or disadvantageous to an individual or community; or
 - (ii) that may result in harm or disadvantage to an individual or community.arising out of any failure by us, our employees or agents to comply with any consumer guarantees applying to the Recreational Activities.
8. To the fullest extent permitted by law, we make no warranties in relation to the services to be provided. Without limiting clause 7a above, all warranties, representations or conditions relating to the services we provide (whether express or implied and whether arising in contract at common law or under statute) are to the maximum extent permitted by law expressly excluded. You acknowledge and agree that where any of the consumer guarantees under the CCA apply to the services supplied by us, and the CCA voids or prohibits a provision in a contract excluding, restricting or modifying such consumer guarantees, then, to the fullest extent permitted by law, our liability under or arising out of the supply of services for breach of, or failure to comply with, such consumer guarantees shall be limited at our option to the re supply of the services or the payment of the cost of having the services supplied again.
9. Except to the extent that the law, including the CCA provides that liability cannot be excluded you acknowledge that we are not liable to you for any loss, damage, injury or any incidental, indirect, special, consequential or economic loss or damage (including loss of opportunities, exemplary or punitive damages) whether to person or to property and whether arising from default, negligence, misconduct or otherwise by us, our employees or our agents and you indemnify us against all claims. Where our liability cannot be excluded we limit our liability to the maximum extent that we are permitted by law to do so.
10. If you choose to use "Epic Benefits" associated with your Season Pass, you agree that the acknowledgment and assumption of risk described above apply to all activities at ski areas owned and operated by Vail Resorts, Inc. or its affiliates. In addition, you release from liability and agree not to sue Vail Resorts, Inc. and all of its respective affiliates and subsidiaries for any property damage, injury or loss, which arises out of your use of the ski pass benefits, including those claims based on alleged or actual negligence, breach of any contract and/or express or implied warranty. You agree to follow each resort's rules related to access and safe skiing and riding and understand that failure to adhere to such rules may result in the loss of your Season Pass benefits.
11. Season Passes are further subject to the terms and conditions below. By using your Season Pass you will acknowledge that you agree with and will abide by the Season Pass terms and conditions.
- a) Your Season Pass is for your personal use only as the Season Pass Holder and is non-transferable to any other person. All Perisher Cards remain our property and must not be resold, transferred or altered in any way. You are responsible for promptly reporting to Perisher if your Season Pass is lost, stolen or damaged by notifying a Perisher ticket outlet or email Perisher Guest Services at info@perisher.com.au. In these circumstances or if you forget to bring your Season Pass you can visit a Perisher Ticket Office where, upon presentation of valid ID and the payment of a \$5 administration fee, our staff can reissue your Season Pass. You acknowledge and accept that you are liable for any use of your Season Pass that occurs while your Season Pass is not in your possession, unless you have already reported your Season Pass lost/stolen. Use of your Season Pass by another party will result in the cancellation of your Season Pass. Season Pass fraud is a criminal offence and may invoke police action.
 - b) **BY PAYING EITHER YOUR INITIAL PAYMENT OR YOUR PAYMENT IN FULL FOR YOUR SEASON PASS(ES), YOU UNDERSTAND AND ACKNOWLEDGE THAT YOU ARE COMMITTING TO BUY THE SEASON PASS(ES) FOR THE 2018 AUSTRALIAN SEASON AND THE 2018/2019 NORTHERN HEMISPHERE SEASON. YOU UNDERSTAND AND ACKNOWLEDGE THAT YOUR SEASON PASS IS NOT CANCELLABLE OR REFUNDABLE, EXCEPT AS PROVIDED FOR IN THIS SECTION. WHEN PURCHASING SEASON PASS(ES) WITH AN INITIAL PAYMENT, YOU REPRESENT THAT THE CREDIT CARD YOU PROVIDE WILL BE AUTHORIZED FOR PAYMENT OF THE REMAINING BALANCE OF YOUR PURCHASE ON OR ABOUT 1 MAY, 2018. UNDER THE AUSTRALIAN CONSUMER LAW, YOU ARE ENTITLED TO THE BENEFIT OF THE NON-EXCLUDABLE CONSUMER GUARANTEES THAT**

APPLY TO THE PROVISION OF BOTH GOODS AND SERVICES (“CONSUMER GUARANTEES”). GOODS AND SERVICES SUPPLIED UNDER THIS AGREEMENT WILL COMPLY WITH THESE CONSUMER GUARANTEES. YOU WILL NOT BE ENTITLED TO CANCEL YOUR SEASON PASS PURCHASE AFTER THE INITIAL PAYMENT OR RECEIVE A REFUND OF THE SEASON PASS FEES (OR ANY PART THEREOF) UNLESS: 1) PERISHER HAS FAILED TO COMPLY WITH THE CONSUMER GUARANTEES OR IS OTHERWISE REQUIRED BY LAW TO PROVIDE A REFUND; OR 2) YOU HAVE PURCHASED SEASON PASS REFUND PROTECTION AND YOUR CLAIM IS COVERED PURSUANT TO THE CONDITIONS LISTED IN CLAUSE 12, BELOW.

- c) Your Season Pass is valid only during the period for which it is advertised and not in any other period.
- d) You may only buy the Season Pass which is relevant for your age as at 9 June 2018, and suitable age identification (e.g. birth certificate, driver’s licence etc.) is required for children, students and seniors.
- e) Where you collect your Season Pass from a ticket office, a valid Photo ID showing your birth date is required to be presented to collect your Season Pass.
- f) Where you buy or re-load a Season Pass on-line you must upload an appropriate photograph of the Season Pass Holder.
- g) You may not change the Season Pass Holder’s name or photograph.
- h) Epic Australia Passes and any upgrades to that pass must be paid for in full before any lift access will be activated.
- i) Season Pass Holders will be required to sign/e-sign a waiver and release of liability. Where a Season Pass Holder is 17 years of age or younger, the Season Pass Holder’s parent or guardian will be required to sign/e-sign a waiver and release of liability on their behalf.
- j) You agree to provide a valid email address and mobile telephone number for the express purpose of receiving communications regarding the Season Pass purchase transaction and acknowledge that these are the only ways by which we will communicate with you.
- k) Lifts may be closed from time to time for weather, safety, or other operational reasons, as directed by Perisher’s authorised employees,
- l) The Season Pass does not entitle you to use the resort facilities for any commercial purpose except with our prior written consent and does not entitle you to provide or receive ski or snowboard instruction except where provided by us, our employees or our agents.
- m) All valid Season Passes include unlimited use of Skitube between Perisher Valley and Blue Cow.

These conditions, together with the risk warning displayed below, form part of the conditions of entry and use of our facilities, equipment and services.

RISK WARNING:

Recreational Activities including skiing, snowboarding, using lifts, snowtubing, tobogganing and snow play involve significant risk of physical harm, including personal injury, permanent disability and/or even death. Such harm may result from your own actions, or the actions and/or omissions of others.

IF YOU BREACH ANY OF THE CONDITIONS OF THE SEASON PASS WE MAY REQUIRE YOU TO FORFEIT THE LIFT AND / OR SKITUBE ACCESS COMPONENT OF THE SEASON PASS AND YOU WILL LOSE ANY ASSOCIATED PRIVILEGES.

Skiers/snowboarders must observe the Alpine Responsibility Code and ski/ride in a safe manner at all times. Failure to do so may result in a forfeiture of skiing/snowboarding privileges.

12. Season Pass Refund Protection (“Refund Protection”) is subject to the terms and conditions below:

- a. Any person who buys a Season Pass from Perisher for the 2018 Ski Season may purchase Refund Protection at the time that Refund Protection is offered for sale by Perisher.
- b. Refund Protection is unique to a Season Pass and does not apply to any other product including a Skitube Season Pass.
- c. Refund Protection only provides for a refund due to Injury, Medical Circumstance or other Occurrence in accordance with these terms and conditions and not for any other reason (refer to the refund amount listed at Clause 12 (i) below).
- d. Refund Protection is NOT transferable and cannot be sold or exchanged.
- e. The Refund Protection purchase amount is not refundable.
- f. The maximum refund amount of Refund Protection shall not exceed the full purchase amount of the Season Pass.
- g. With respect to an Injury or Medical Circumstance of the Season Pass Holder, a Doctor must recommend that due to the severity of the Injury or Medical Circumstance, it is Medically Necessary that the Season Pass Holder must not Ski for the remainder of the period for which the Season Pass is valid.

- h. The Season Pass Holder must contact Perisher (refer to Clause 12 (o) for contact details) as soon as is reasonably practical after the occurrence of the Injury or the onset of the Medical Circumstance or the Occurrence.
- i. The Refund Protection refund amount will be the purchase cost of the Season Pass minus the applicable Daily Rate for each day that you have used your Season Pass during the 2018 Ski Season.
- j. Season Passes and all associated benefits will be deactivated and cannot be reactivated once a refund has taken place.
- k. Refund Protection coverage is not payable for any loss caused in whole or in part by, or resulting in whole or in part from:
 - i. The Season Pass Holder's commission of or attempt to commit a crime;
 - ii. Business interruption at any of the resorts at which the Season Pass is valid;
 - iii. Elective or cosmetic surgery;
 - iv. Injury or Medical Circumstance arising from alcohol or drug abuse;
 - v. Violation of any of these "Terms and Conditions";
 - vi. Violation of "The Alpine Responsibility Code";
 - vii. Lack of snow.
- l. Refund Protection will only be activated when Perisher has confirmation that it has received payment for the Season Pass and Refund Protection.
- m. Refund Protection coverage ends at;
 - i. 11:59:59 p.m. on 14 April 2019 or
 - ii. The date when a refund made by 11:59:59 pm, 14 April 2019 in accordance with these terms and conditions is finally processed.
- n. Definitions;
 - i. 2018 Ski Season - means the period starting on 9 June 2018 and ending on 14 April 2019.
 - ii. Daily Rate means AU\$104 per day for an Adult Season Pass, AU\$75 per day for a Senior's Season Pass and AU\$63 per day for a Student Season Pass.
 - iii. Doctor - means a licensed medical practitioner within the scope of his or her license who is not the Season Pass Holder or a person who is related to the Season Pass Holder by blood, marriage or defacto living arrangement.
 - iv. Injury - means bodily injury which is sustained as a direct result of an unintended, unanticipated accident that occurs while the Season Pass Holder's coverage under Refund Protection is in force. Injury will also include circumstances where an Injury occurs to a dependent person where the Season Pass Holder must provide primary care for that dependent person.
 - v. Medical Circumstance - means an illness or disease that requires treatment by a Doctor, or pregnancy or a relocation which is Medically Necessary.
 - vi. Medically Necessary - means the Doctor's recommendation is consistent with the symptoms, diagnosis and treatment of the Season Pass Holder's condition; is appropriate with regard to standards of good medical practice; and is not primarily for the convenience of the Season Pass Holder.
 - vii. Occurrence - means verifiable international relocation. It is the responsibility of the Season Pass Holder making the application to substantiate the Occurrence to Perisher's reasonable satisfaction, which will be determined in accordance with Clause 12 (p) below.
 - viii. Perisher Card – means your personal, RFID (Radio Frequency Identification) technology enabled card that notifies RFID gates located at Perisher's lifts and Skitube to open when you approach.
 - ix. Season Pass – means Epic Australia Pass, Perisher Season Pass and Epic Australia Pass Plus Upgrade.
 - x. Season Pass Holder - means an individual who buys or in whose name a Season Pass has been bought from Perisher.
 - xi. Skiing/Ski - means alpine skiing, telemark skiing or snowboarding.
- o. Refund requests must be made by email to: tickets@perisher.com.au. Refund requests made after 14 April 2019 will not be accepted.
- p. All refund requests will be assessed with regard to the fair and reasonable application of these terms and conditions, however all decisions made by Perisher will be final and binding and no correspondence will be entered into.

Privacy

13. Perisher collects the personal information requested on the Website to enable the efficient provision of the goods and/or services that you have requested and to complete the administrative and payment functions associated with that transaction. It is possible to gain access to this personal information held by Perisher. The Perisher Privacy Policy Statement sets out our policies on the management of personal information. To get a copy, please write to The Privacy Officer, Perisher Blue Pty Limited PO Box 42, Perisher Valley, NSW 2624 or you can also telephone us on 1300 655 822, visit our website at www.perisher.com.au or e-mail to privacy@perisher.com.au.

General

14. These Terms and Conditions and your signed waiver and release of liability comprise the entire agreement between you and us in relation to its subject matter and supersede any prior agreement or understanding on anything connected with its subject matter.
15. These Terms and Conditions are governed by the laws of New South Wales, Australia. You irrevocably submit to the exclusive jurisdiction of the courts of New South Wales, Australia.

YOUR ALPINE RESPONSIBILITY CODE

There are inherent risks in all snow recreational activities. Common sense, staying in control and personal awareness can reduce these risks. Risks include rapid changes in weather, visibility and surface conditions, as well as natural and artificial hazards such as rocks, trees, stumps, vehicles, lift towers, snow fences and snowmaking equipment. Observe the code and ski and ride with courtesy to others.

1. Stay in control and avoid other people and hazards.
2. Use appropriate protective equipment, especially helmets, to minimise the risk of injury.
3. You must have the ability to use each lift safely. If in doubt ask the lift attendant.
4. Obey all signs and warnings, and keep off closed trails and areas.
5. It is your responsibility to avoid and give way to people below and beside you.
6. Do not stop where you are not visible from above or where you obstruct a trail.
7. Before starting downhill, or merging into a trail, look uphill and give way to others.
8. Use care to prevent runaway snowboards.
9. If you are involved in or see an accident, alert and identify yourself to Resort Staff.
10. Be aware that it is dangerous to ski, board or ride lifts if your ability is impaired by drugs or alcohol.

KNOW THE CODE. IT'S YOUR RESPONSIBILITY.

Failure to observe the code may result in cancellation of your ticket or pass by Resort Staff.

